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C. Judson King
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Dear Jud:

You will recall that in April 2001, the Standing Committee on Copyright transmitted to you and to the Chair of Academic Council three draft policies that were subsequently distributed to Chancellors and Academic Senate leadership for informal review. These policies were:

- Policy on Ownership and Use of Course Materials
- Policy on Recordings of [Academic][Instructional] Presentations
- Policy on Reservations of Rights

At its December 19, 2001 meeting, the Standing Committee on Copyright reviewed the numerous and extensive comments received, finding that the comments were generally supportive of the approach taken by the Committee. At that time, we agreed to revise the Policy on Ownership of Course Materials and move it forward for formal Universitywide review, and the revised policy was forwarded to you with my letter of April 24, 2002.

I am writing now to report on the Committee's disposition of the remaining two draft policies, on recording of presentations and reservations of rights.

With regard to the draft Policy on Reservation of Rights, the Committee received extensive comments from campuses and the faculty, virtually all of which supported the view that such a policy would be unworkable and unenforceable and would place an unreasonable burden on those faculty who attempted to comply. The Committee fully recognizes the complexities and conflicting interests embodied in the current system of scholarly publishing and the pivotal role that copyright plays in the operation of that system; indeed, the Committee members recently spent a full day, meeting jointly with the Systemwide Library and Scholarly Information Advisory Committee (SLASIAC), exploring at length many of those complexities and conflicts. In view of the legitimate concerns raised by the campus reviewers, the Committee has decided to withdraw the proposal for a policy on reservation of rights, preferring instead to continue to work

with SLASIAC to pursue the action recommendations arising from our May 23 joint meeting. You will no doubt be hearing of the outcomes of that meeting shortly.

The draft Policy on Recordings of [Academic][Instructional] Presentations drew a considerable amount of commentary, very little of it favorable. The commentary revealed widely differing positions on fundamental issues of who should control the creation and use of recordings of classroom presentations, differences that could not easily be reconciled by the Committee. For example, approval by the University is not required for the commercial use of records of classroom presentations covered in Part A of the draft policy, but is required for the recordings addressed in Part B. The Committee crafted this provision in the belief that a requirement for University permission in Part A would, for example, unreasonably prevent faculty from making use of lecture notes prepared by their students in writing a commercially-published textbook based on the course. However, one reviewer commented that "Part A appears to give the course instructor the freedom to sell or otherwise market the recording without any reimbursement, or in fact, reference, to the University," a concern that is shared by some members of the Committee. In another case, one reviewer recommends that the policy should "prohibit the University from reusing [a] recording to offer the same 'course' in future years," while another expresses concern that "as written, UC cannot 'distribute or publish' without the written consent of the instructor either! Rerword to exclude UC from the list of prohibited folks."

In considering the nature and complexity of the questions raised by the reviewers, the Committee observed that issues of academic policy, business policy and practice, and appropriate use of the University name and facilities for commercial purposes appear to be more central to this matter than do issues of copyright; indeed, the draft policy does not address issues of copyright ownership at all. The Committee is therefore concerned that it might not be the right group to move this policy forward, and that there might be other University officials or advisory groups that might be more effective in developing and finalizing policy in this area.

To provide you the opportunity to consider what venue might be best for reconciling the issues raised by this draft policy, the Committee is forwarding to you, by attachment to this letter, the original draft and a compilation of the comments received. It has been suggested that these issues might best be handled through an informal administrative review of the situations that campuses have encountered in this area, followed by appointment of an *ad hoc* group to review this evidence and assess the needs to be addressed by policy. If, however, you wish the Committee to proceed with further development of this policy, we shall of course be happy to do so.

With best wishes,



Wyatt R. Hume
Executive Vice Chancellor

Enclosures

cc:(w/o enclosures) Standing Committee on Copyright